Commonwealth of Massachusetts
Department of Telecommunications and Energy

Bay State Gas Company	)	**D.T.E. 05-27**
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Reply Comments of Associated Industries of Massachusetts

I. **Introduction**

On April 27, 2005, Bay State Gas Company ("Bay State" or the "Company") filed with the Department of Telecommunications and Energy ("Department") a request for an increase of $22.2 million in the Company's revenues. In addition Bay State, is proposing a Steel Infrastructure Replacement ("SIR") base rate adjustment and a five year Performance-Based Regulation ("PBR") plan.

Associated Industries of Massachusetts ("A.I.M.") was established in 1915 and is the largest non-profit, non-partisan association of Massachusetts' employers representing over 7,600 businesses in the Commonwealth. A.I.M. has long been involved in energy issues on a local, regional, and national level. A.I.M. was granted intervenor status in the proceeding on May 24, 2005. Although A.I.M. did not file an initial brief, in accordance with the established procedural schedule A.I.M. hereby submits these comments relative to the Company's PBR, SIR, return on common equity, duel fuel charge, and capacity charge for grandfathered transportation customers for the Department's consideration as its reply comments.

PBR Proposal and the exclusion of SIR

A.I.M. supports performance based ratemaking as an alternative to the traditional cost of service methodology to deliver the most reliable and safe gas and electricity at the lowest and most reasonable cost to all consumers. Bay State's own expert stated "PBR is designed to create stronger performance incentives than traditional regulation" (Exhibit BSG/LRK – 1, pg 6 of 19, line 13, 14). The selective exclusion of certain costs in PBR, as proposed by Bay State, eliminates the incentives for cost containment and efficiencies that provide ratepayer benefit. A.I.M. requests that the Department carefully review this PBR plan, including the length of the plan, evaluate it on individual aspects, specifically the exclusion of the SIR proposal. A.I.M. also requests that the Department pay close attention to and develop the appropriate incentives to maximize efficiencies to insure the rate-payer benefits of PBR. While A.I.M. supports the necessary replacement of steel infrastructure, we urge the Department to support the most cost-effective main replacement mechanism to mitigate expense to rate-payers.

Rate of Return on Common Equity

According to pre-filed testimony of Mr. Moul, the Company proposes a rate of return on common equity of 11.5% (Exibit BSG/PRM-1, page 4, line 1). A.I.M. does not support the Company's assertion that the Department should deviate from normal procedure by reducing the importance of the discounted cash flow model in calculating the cost of equity (Exibit BSG/PRM-1, page 8 line 22 –24, page 9 line 1). The Department has recently established a rate of return on common equity for Fitchburg Gas and Electric at 10% (D.T.E. 02-24/25) and Berkshire Gas at 10.5% (D.T.E. 01-56). While the Attorney General in their Initial Brief filed August 5, 2005 on page 99 recommends that the Department set the return on common equity no higher than 8.66%, A.I.M. suggests that the Department use the Company's proposed rate and the Attorney General's recommended rate as ends of the spectrum and using Department precedent determine where the Company actually fits. In light of past Department precedent the Company's request for 11.5% return on common equity is excessive and should be rejected.

Special Provision for Use of Duel Fuel Equipment (M.D.T.E. No. 67)

As part of this rate case filing, the Company proposes a new charge for industrial customers with duel fuel capability (MDTE No. 67). The Company proposes this increase without any empirical evidence that duel-fueled customer switching causes system problems (RR-DTE-77, Transcript Volume 10 at 1769, beginning line 27). This tariff was created without any survey or discussion with customers (AG – 9 – 32), although the ability of an industrial customer to burn an alternative fuel during high gas demand periods, likely limited by environmental permitting requirements, benefits the Company and all customers attached to the distribution system. This "take-or-pay" clause is financially motivated and is an unfair and unjustified burden on industrial customers and should be rejected by the Department.

Capacity Charge for Grandfathered Transportation Customers

In the Company's proposed terms and conditions (Exibit BSG/JAF – 3, page 414, Section 11.6.3), the Company suggests changes to the tariff that would expose capacity-exempt, or grandfathered transportation customers to a full year capacity charge in addition to the penalty that the customer would normally pay for an overtake on <u>one</u> single day. While existing penalty provisions for overtake are appropriate, the proposed change in the tariff would be an additional and unfair burden on commercial and industrial customers, and thus should be rejected by the Department.

Respectfully submitted for Associated Industries of Massachusetts by:

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